

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Demetrus McClary,)	Case No. 2:21-cv-02626-DCC
)	
Plaintiff,)	
)	
v.)	ORDER
)	
)	
Jonathan Elliott and PFC Beck,)	
)	
Defendants.)	
_____)	

This matter is before the Court upon Plaintiff's complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Mary Gordon Baker for pre-trial proceedings and a Report and Recommendation ("Report"). On March 11, 2022, Defendants filed a motion to dismiss. ECF No. 39. Plaintiff filed a response in opposition. ECF No. 44. On May 17, 2022, the Magistrate Judge issued a Report recommending that the motion be granted.¹ ECF No. 49. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff did not file objections to the Report and the time to do so has lapsed.²

¹ This action was reassigned from the Honorable Margaret B. Seymour to the undersigned on September 12, 2022. ECF No. 56.

² The Report was initially put in the mail on May 17, 2022. ECF No. 50. This copy of the Report was returned as undeliverable. ECF No. 51. Despite an earlier warning

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

As stated above, Plaintiff has not objected to the Magistrate Judge's Report. Accordingly, after considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. Defendants' motion to dismiss [39] is **GRANTED**.

IT IS SO ORDERED.

that the Plaintiff was responsible for keeping the Court apprised of his current address, the Magistrate Judge reviewed the South Carolina Department of Corrections Inmate Locator and determined Plaintiff had been moved. ECF No. 53; see *also* ECF No. 6. She directed the Clerk of Court to resend the Report to the new address and extended the time to file objections. ECF No. 53. Plaintiff's new deadline for filing objections was July 19, 2022. *Id.* This copy of the Report has not been returned.

October 3, 2022

Spartanburg, South
Carolina

s/ Donald C. Coggins, Jr.
United States District Judge